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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

J. GRAY O'BRIEN
917 Venezia
Venice, CA 90291

Physical Therapy License No. PT 25009

Respondent.

Case No. 1D 2003 63747

OAH No. L2005090372

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical
Therapy Board of California. He brought this action solely in his official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by E. A.
Jones III, Deputy Attorney General.

2. J. Gray O'Brien (Respondent) is representing himself in this proceeding
and has chosen not to exercise his right to be represented by counsel.

3. On or about February 22, 2000, the Physical Therapy Board of California
issued Physical Therapy License No. PT 25009 to J. Gray O'Brien (Respondent). The License
was in full force and effect at all times relevant to the charges brought in Accusation No. 1D

1 2003 63747 and will expire on June 30, 2007, unless renewed.

2 JURISDICTION

3 4. First Amended Accusation No. 1D 2003 63747 was filed before the
4 Physical Therapy Board of California (Board), Department of Consumer Affairs, and is currently
5 pending against Respondent. The First Amended Accusation and all other statutorily required
6 documents were properly served on Respondent on March 13, 2006. Respondent timely filed his
7 Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. 1D 2003
8 63747 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in First Amended Accusation No. 1D 2003 63747. Respondent has also carefully read, and
12 understands the effects of this Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the First Amended Accusation; the right to be
15 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
16 against him; the right to present evidence and to testify on his own behalf; the right to the
17 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
18 the right to reconsideration and court review of an adverse decision; and all other rights accorded
19 by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 First Amended Accusation No. 1D 2003 63747.

25 9. Respondent agrees that his Physical Therapy License is subject to
26 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
27 Disciplinary Order below.

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CIRCUMSTANCES IN MITIGATION

10. Respondent J. Gray O'Brien has never been the subject of any disciplinary action. He is admitting responsibility at an early stage in the proceedings.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Physical Therapy Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Physical Therapy Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Physical Therapy Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent J. Gray O'Brien, holder of Physical Therapist License No. PT 25009, shall be publicly reprovred by the Physical Therapy Board of

1 California for violating Business and Professions Code sections 2630 and California Code of
2 Regulations, title 16, section 1399 as set forth in First Amended Accusation No.1D 2003 63747,
3 and shall comply with the following terms and conditions. A copy of the public reproof is
4 attached as Exhibit B and is incorporated here as if fully set forth.

5 1. COST RECOVERY The Respondent is ordered to reimburse the Board
6 the actual and reasonable investigative and prosecutorial costs incurred by the Board in the
7 amount of \$400.00. If Respondent pays \$200.00 within ninety (90) days of the effective date of
8 this stipulation, the balance shall be forgiven. Failure to timely make the \$200.00 payment
9 constitutes a material breach of this order and shall cause the whole amount (\$400.00) to be due
10 and payable.

11 2. WRITTEN EXAM ON THE LAWS & REGULATIONS GOVERNING
12 THE PRACTICE OF PHYSICAL THERAPY Within 90 days of the effective date of this
13 decision, Respondent shall take and pass the Board's written examination on the laws and
14 regulations governing the practice of physical therapy in California. If Respondent fails to pass
15 the examination, Respondent shall be suspended from the practice of physical therapy until a
16 repeat examination has been successfully passed. Failure to comply with this condition
17 constitutes a material breach of this order.

18 3. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHEN
19 SUBJECT TO PUBLIC REPROVAL It is not contrary to the public interest for the Respondent
20 to practice and/or perform physical therapy after issuance of the public reproof. Accordingly, it
21 is not the intent of the Board that this order or the fact that the Respondent has been publicly
22 reproofed shall be used as the sole basis for any third party payor to remove Respondent from any
23 list of approved providers.

24 4. FAILURE TO COMPLY WITH ORDER A material breach by
25 Respondent of this order shall constitute unprofessional conduct and shall be a basis for further
26 disciplinary action by the Board. In such circumstances, the Complainant may reinstate the First
27 Amended Accusation in case number 1D 2003 63747, file an amended accusation and/or file a
28 supplemental accusation alleging any material breach of this order by Respondent as

unprofessional conduct.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physical Therapy License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physical Therapy Board of California.

DATED: February 11, 2006.

Original Signed By: _____
J. GRAY O'BRIEN
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

DATED: February 27, 2006.

BILL LOCKYER, Attorney General
of the State of California

Original Signed By: _____
E. A. JONES III
Deputy Attorney General

Attorneys for Complainant

O'Brien, J Stip. Decision.wpd

Exhibit A

Accusation No. 1D 2003 63747

Exhibit B
Public Reproval

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

J. GRAY O'BRIEN
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Physical Therapy License No. PT 25009

Respondent.

Case No. 1D 2003 63747

OAH No. L2005090372

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 12, 2006.

It is so ORDERED April 11, 2006.

Original Signed By:
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Donald A. Chu, PhD, PT, President